

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE**

<b>WAVERLY N. WHITE,</b>	:	
	:	
Petitioner,	:	
	:	
v.	:	Civ. Act. No. 05-14-SLR
	:	
<b>THOMAS CARROLL,</b>	:	
Warden, and <b>M. JANE BRADY,</b>	:	
Attorney General of the State of	:	
Delaware,	:	
	:	
Respondents.	:	

**MOTION FOR EXTENSION OF TIME**

Pursuant to Rule 6 of the Federal Rules of Civil Procedure, respondents move for an extension of time in which to file an answer to the petition. In support thereof, respondents state the following:

1. The petitioner, Waverly N. White, has applied for federal habeas relief, challenging his April 2002 conviction by guilty plea in Delaware Superior Court for first degree robbery, third degree assault, and possession of drug paraphernalia. D.I. 1. By the terms of the Court's order, the answer is due to be filed on April 11, 2005.

2. During the last several weeks, counsel for respondents has been working diligently on an answer to a brief in a capital case due to be filed tomorrow in the Delaware Supreme Court. Further, the undersigned has been out of the office for several days on a previously scheduled vacation. In addition, the undersigned has been and continues to be working on other cases before this Court and the state courts. In light of the situation, additional time is needed to complete the answer and have it reviewed in the ordinary course of business.

3. Under Habeas Rule 4, the Court has the discretion to give respondents an extension of time exceeding the 40-day limit in Civil Rule 81(a)(2). *Clutchette v. Rushen*, 770 F.2d 1469, 1473-74 & n.4 (9<sup>th</sup> Cir. 1985); *Kramer v. Jenkins*, 108 F.R.D. 429, 431-32 (N.D. Ill. 1985). The comment to Rule 4 expressly states that the district court has "the discretion to take into account various factors such as the respondents' workload" in determining the period of time that should be allowed to answer the petition.

4. This is respondents' first request for an extension of time in this case.

5. Respondents submit that an extension of time to and including May 13, 2005 in which to file an answer is reasonable. Respondents submit herewith a proposed order.

/s/ Elizabeth R. McFarlan  
Deputy Attorney General  
Department of Justice  
820 N. French Street  
Wilmington, DE 19801  
(302) 577-8500  
Del. Bar. ID No. 3759

DATE: April 7, 2005

**CERTIFICATE OF SERVICE**

I hereby certify that on April 7, 2005, I electronically filed a motion for extension of time and attachments with the Clerk of Court using CM/ECF. I also hereby certify that on April 7, 2005, I have mailed by United States Service, the documents to the following non-registered participant:

Waverly N. White  
SBI No. 166563  
Delaware Correctional Center  
1181 Paddock Road  
Smyrna, DE 19977

/s/ Elizabeth R. McFarlan  
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